IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

(1) CRIMINAL APPLICATION NO.2204 OF 2005
WITH
(2) CRIMINAL APPLICATION NO.2205 OF 2005

M/s.Jayantilal Investments
and Ors. ...Applicants

Vs.

LIC Housing Finance Ltd.
and Anr. ...Respondents

....
Mr.M.S.Mohite Advocate for Applicant
Mr.S.R.Shinde, A.P.P. for the State
....

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JUNE 10, 2005

P.C.

1. Heard the learned advocate for the applicants and learned A.P.P. for the State.

2. The applicants are seeking quashing of the order of process dated 17.6.98 & 10.6.98 passed in C.C.Nos. 1258/S/99 & 2170/S/99 pending on the file of the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai. The said case is under Section 138 of Negotiable Instruments Act.

3. The applicants had preferred the application before the learned Magistrate for recalling of process. The said application came to be rejected. Being aggrieved thereby the applicants approached the Sessions Court in revision. The applicants in Cri. Application No.2204 of 2005 preferred Criminal Revision Application No. 761 of 2002 against the order of the Magistrate. However, the Sessions Court dismissed the revision as it was of the opinion that in view of the observations of the Supreme Court in the case of **Adalat Prasad Vs. Rooplal Jindal and others; 2004(4) Mh.L.J.274,** the revision was not tenable. The applicants in Cri.Application No.2205 of 2005 had also preferred revision. The said revision came to be dismissed in default. In the meantime, the judgment in the case of **Adalat Prasad** came to be reported, hence, the applicants in Cri.Application No.2205 of 2005 have not preferred an application for restoring the revision but have directly approached this Court under Section 482 of Cr.P.C.

4. For the reasons recorded in my order dated 8th June, 2005 in Cri.Application No. 645 of 2005 and order dated 9th June, 2005 in Cri.Application

No.1379 of 2005, in my view, it is clear that a person against whom process has been issued, has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer a fresh revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the applicants to prefer the necessary revision before the concerned Sessions Court.

6. It is made clear that the revision shall be preferred in respect of the Magistrate's order issuing process against the applicants. In the meantime, the applicants are exempted from personal appearance before the trial Court for a period of three weeks.

7. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing necessary parties.

8. Criminal Applications are disposed of.

[V.K.TAHILRAMANI,J.]